

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA,                  )  
    )  
    )  
v.    )         CASE NO. 2:06cr48-VPM  
    )  
EARLENE V. HAWLEY                        )

**ORDER ON MOTION**

The defendant has moved for continuance of the trial of this case and has waived her right to speedy trial. While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the *Speedy Trial Act*, 18 U.S.C. §3161 ["The Act]. The Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such a matter. 18 U.S.C. §3161(c)(1). *See United States v. Vassar*, 916 F.2d 624 (11th Cir. 1990). The Act excludes from this 70-day period any continuance that the judge grants "on the basis of [her] findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial". 18 U.S.C. §3161(h) (8) (A).

In this case, the defendant advised the court that an application for the Pretrial Diversion Program is now pending. Attached to the defendant's motion is an affidavit in which the defendant waives her right to a speedy trial. There is only one defendant in this case, and the government does not object to a continuance. Therefore, the court concludes

that the ends of justice served by continuing this case outweigh the interests of the public and the defendant in a speedy trial.

Accordingly, it is hereby ORDERED as follows:

1. The defendant's motion to continue, filed on 22 June 2006, be GRANTED and that this cause be set on the trial term commencing on 11 September 2006.
2. All other provisions of this court's arraignment order entered on 22 May 2006 shall remain in full force and effect.

DONE this 29<sup>th</sup> day of June, 2006.

/s/ Vanzetta Penn McPherson  
VANZETTA PENN MCPHERSON  
UNITED STATES MAGISTRATE JUDGE